

and ISAKSON, along with their counterparts in the House, were able to forge a bicameral, bipartisan agreement. Congratulations to each of these Senators and the House Members who worked with them. They worked in a bipartisan, bicameral way, which resulted in successful legislation.

In basketball they say if you are not doing well, you just have a lot of off days and that the best way for a shooter to get his rhythm back is to sink a couple of baskets. I hope this theory proves true in the Senate. It is time we sank a couple of baskets. It is time for us to start working together so we can get things done. Hopefully, by witnessing the success of a good bipartisan bill such as this, the Senate will get its rhythm back.

UNANIMOUS CONSENT AGREEMENT—EXECUTIVE
CALENDAR

Mr. REID. Mr. President, I ask unanimous consent that following the disposition of H.R. 803, which is the Workforce Innovation and Opportunity Act, the Senate proceed to executive session to consider Calendar Nos. 499, 501, and 787; and that the Senate proceed to vote on the confirmation of the nominations in the order listed; further, if any nomination is confirmed, the motion to reconsider be considered made and laid upon the table, with no intervening action or debate, and that no further motions be in order to the nominations; that any statements related to the nominations be printed in the RECORD and that President Obama be immediately notified of the Senate's action and the Senate resume legislative session.

The ACTING PRESIDENT pro tempore. Is there objection? Without objection, it is so ordered.

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The Republican leader is recognized.

KEYSTONE PIPELINE

Mr. MCCONNELL. Influence—it is a word we hear a lot these days, especially from our friends on the other side who suddenly feel the need to convince their constituents that they are “moderate” Democrats, despite the voting records that say just the opposite. These Senate Democrats can't stop boasting about how much supposed influence they have on energy issues, but it is a baffling claim to the rest of us because it is so hard to point to what they have actually accomplished.

Take the Keystone Pipeline. The Senate Democrats I am referring to claim to have so much influence within their party to get it approved, but the evidence actually leads to the opposite conclusion; that they have almost none at all. When it comes right down to it, they have not even been able to secure a serious, gimmick-free floor vote from the majority leader to approve the Keystone Pipeline. That should be the bare minimum.

The events that transpired yesterday only underscore the point. Yesterday

afternoon several of my Republican colleagues again tried to pass the Keystone Pipeline. Once again, the Democratic leadership blocked the bill, and the so-called moderate Democrats simply stood by while their own party blocked this important job-creation legislation. They didn't even put up a credible fight.

It is disappointing, but it is no surprise because Washington Democrats have blocked approval of this shovel-ready, job-creation project for years now, even though it would create thousands of well-paying American jobs, even though it would help our struggling economy, even though it would increase North American energy independence, and even though the Obama administration has admitted that constructing the pipeline would have almost zero significant impact on the environment.

In other words, the Senate Democratic leadership is obstructing construction of the Keystone Pipeline for one main reason—to please their patrons on the far left. Let's be clear about something. The only reason they are able to get away with it is because so-called moderate Democrats let them, the same so-called moderates who claim to have so much influence around here.

The bottom line is these so-called moderates can't have it both ways. They can't credibly claim to have influence on issues such as these, even as they let their party leaders shoot down almost every effort to achieve the things they claim to want, such as Keystone.

Frankly, it is hard to see how we could ever hope to get a Keystone bill over to the President's desk and signed into law while Democrats run the Senate, especially when the so-called moderates stand idly by as the President has yet another meeting with the anti-Keystone jobs lobby tonight. The President is meeting with an anti-Keystone fundraiser today and will be hearing from an organization with a mission to stop these important jobs. He needs to hear from Americans across the country who are desperate for work in the Obama economy. Preaching to the choir is not going to get that done.

Ironically enough, the President will be meeting with these same anti-Keystone interests right after holding a pep rally with Senate Democrats—his reliable anti-Keystone backstop in Congress.

I think it is time to put aside the charade. The American people have already had to suffer through more than 5 years of delay and obfuscation on this pipeline. The bureaucrats and the experts have studied it to death over and over, and every time we learn basically the very same thing: There is a ton of upside to building Keystone and minimal substantive downside.

It is time to end all the politically motivated delays and get serious around here. It is time for Democrats

who claim to support these important jobs to stand up to the party bosses and stand with their constituents and not just talk about doing it. We owe it to the American people to get these Keystone Pipeline jobs approved as soon as possible.

Unfortunately, it seems increasingly clear that will never happen under the current Democratic-run Senate, but one way or another, we need to get this done.

I yield the floor.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will be in a period of morning business until 12 noon, with the time equally divided and controlled between the two leaders or their designees, with Senators permitted to speak therein for up to 10 minutes each, with the Republicans controlling the first 30 minutes and the majority controlling the next 30 minutes.

The Senator from South Dakota.

KEYSTONE PIPELINE

Mr. THUNE. Mr. President, in a moment some of my colleagues will come to the floor and ask to enter into a colloquy and discuss an issue that is important to many of us, especially to those of us who represent States in the West and Midwest.

The issue I wish to speak about has to do with something that over the past 5 years the Obama administration has been particularly active in pursuing.

Mr. REID. Mr. President, will my friend allow me to ask a question through the Chair?

Mr. THUNE. Yes.

Mr. REID. I was in my office when I heard the statement by the Republican leader about Keystone. I direct this question to the Senator from South Dakota, who is a fine Senator and understands energy issues.

We agreed to have a vote on Keystone. My friend, the Republican leader, keeps misdirecting the matter. We can have a vote on Keystone. That was part of the deal we made. We had a bipartisan bill, Portman-Shaheen. They worked on that bill for months, since last fall. They put in amendments that people wanted.

JEANNE SHAHEEN came here yesterday and said: Let's have a vote on Keystone, but just as long as we can have a vote on energy efficiency. She even suggested we could have a vote using the McConnell rule—a 60-vote threshold—on both of them.

This is so transparent that my friend the Republican leader is doing the bidding again of the Koch brothers, who own the first or second largest tar

sands holding which exists in the world.

I say to my friend from South Dakota: Why can't we just have a vote on both of those—energy efficiency and on Keystone?

Mr. THUNE. I say through the Chair to the majority leader, the offer, as I understand it, that was put forward by the majority leader with respect to the energy efficiency bill was that this bill would be passed with no amendments. There would be no debate, no amendments, and then somewhere down the road we might get the vote on the Keystone Pipeline. Well, it strikes me at least, as many of my colleagues on this side have been pointing out now for some time, that the way in which the majority leader is running the floor and calling up legislation, preventing amendments to be offered, to be debated and voted on, denies the rights not only of us as Senators but ignores the voices of the people we represent.

So for the majority leader to say we will pass this bill without any amendment—energy is an important issue in many of our States. It is important in my State of South Dakota. It is important to a lot of Members on our side and I would suggest to a lot of Members on the leader's side who would like to have an opportunity to debate some amendments on energy if we are going to have an energy bill on the floor. The leaders came down and said no amendments, no debate, you pass this. We will jam this bill down without amendment, and then sometime we will get to the vote on Keystone.

We would love to get a vote on Keystone. The leader can call that up at any time. We have been saying for some time we ought to have a vote on Keystone. There is broad bipartisan support for it in the Senate. There are a lot of Democrats who support the Keystone Pipeline. But what the leader is suggesting again is he is going to put a bill up, fill the amendment tree, and prevent Republicans from offering amendments. We don't think that is the way the Senate ought to operate.

The ACTING PRESIDENT pro tempore. The majority leader.

Mr. REID. Mr. President, I say to my friend from South Dakota, it is so transparent what is going on here. They are hung up on procedure. If this Keystone vote is so important to them, let's have a vote on it. That is what I was told when we brought up, for the second time, the energy efficiency bill. In fact, I was told by our Republican leader who was pushing that bill to go ahead and fill the tree; we have already worked out all the amendments. The bill is different when we first brought it; we put all the amendments in it.

So, again, we get right where we need to be to pass substantive legislation and here they come. The Republicans walk in here dealing with procedure. If this Keystone is such a big deal, let's vote on it. Let's vote on energy efficiency which is a bipartisan bill. But, no, they can't do that. They can't do

that because we wouldn't be able to offer more amendments.

Now, remember, the Republicans, who were part of that arrangement on the energy efficiency bill, Shaheen-Portman, thought it was a good bill. But again, I repeat, if this is such a big deal to the Republicans, why do they get hung up on procedure? Let's vote on both of them. Let the cards fall where they may.

Mr. THUNE. Mr. President, I would say to the distinguished majority leader that we on this side believe that when we bring an energy bill to the floor to talk about energy, we ought to talk about energy. Now, he may suggest there were certain things incorporated in the bill that some of his Members wanted, maybe even perhaps some of our Members wanted, but we have a lot of Members on this side who have been shut out, who haven't had an opportunity to offer amendments now for the past year. We can come to the floor every day and talk about the fact that since July of last year there have only been votes on 9 Republican amendments and 7 Democratic amendments, out of 1,500 that have been filed. This is insanity.

We would love to get a vote on the Keystone Pipeline, but we also think there are a lot of other energy issues that are important to this country, and if we bring an energy bill to the floor of the Senate, the historical practice in this institution has been that it is open to amendments. All Members get an opportunity to offer amendments. There are issues in addition to the Keystone Pipeline that are critically important to jobs and to the economy and to the energy security in this country. So the way the leader has suggested that this ought to work isn't simply about an argument on procedure. This is about whether the Senate is going to function in a way where the views of the millions of people we represent—those of us here would love to offer amendments on these bills and are being prevented from doing it.

So I would simply say to the leader that this is not simply about the Keystone Pipeline. This is about the broader debate on energy—what it means for jobs, what it means for our economy. We are in a place now where we are not even getting votes in committee. Appropriations bills are being pulled back at the committee level because Democratic Members don't want to vote on amendments that Republican Members might offer. That is not the way this place is supposed to work.

So I appreciate the majority leader's understandable frustration, but it is a frustration that is grounded in the way he is running this institution, not in anything our side is doing.

Mr. REID. Mr. President, no one needs to take my word for it. Take the word of one of the most senior Republicans in this body, the senior Senator from Tennessee. He came to the floor a few days ago and said—on the appropriations bills we hear this plaintive

plea: Let's have some votes. So the Senator from Tennessee said: Why don't we have the votes? What has been established around here is that we have 60 votes on anything that is controversial and 50 votes on everything else, and that is what the Senator from Tennessee said. Let's just go ahead and work through the bills.

There is no better example of that than Dodd-Frank, a bill that the Republicans hate. It passed. On the 24th amendment that we voted on, on that bill, Senator DURBIN offered an amendment on swipe fees, and he was told it was going to be 60 votes. Everything else had been 50. So he had to do his with 60 votes. That is how things work here.

The Republicans don't want to have votes. They want to have issues on procedure. We could finish every one of those appropriations bills—every one of them—if we followed what LAMAR ALEXANDER suggested and what we Democrats have suggested.

So it is interesting. It is interesting. Energy issues—it is just a buzzword for "let's take care of the oil companies some more." That is what this is all about. They want to protect big oil. Now, if they want to have all the appropriations bills pass, let's pass them. All we have to do is follow what I have suggested and what Senator LAMAR ALEXANDER has suggested. That is what we should do.

The ACTING PRESIDENT pro tempore. The Republican leader.

Mr. MCCONNELL. Mr. President, I would simply offer a consent agreement that the majority leader objected to when he pulled the Shaheen bill a while back. It was pretty simple and pretty easily understood. This is the consent that was offered when the majority leader, as I said, pulled the Shaheen-Portman bill a while back. This is what I said:

I propose a different unanimous consent agreement. I ask unanimous consent that the only amendments in order be five amendments from the Republican side related to energy policy with a 60-vote threshold on adoption of each amendment. I further ask that following the disposition of those amendments, the bill be read a third time, and the Senate proceed to vote on the passage of the bill, as amended, if amended.

Now, that gives the majority leader what he was asking for on the last bill: 60-vote thresholds. It gives him amendments from our side related to energy policy, and it would have led to a vote on Keystone.

So I would propound that unanimous consent request again. It sounds to me as though we may be getting somewhere if the majority leader really wants to give us a chance to have a Keystone vote here on the Senate floor.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. REID. Mr. President, reserving the right to object to my friend's suggestion, I would ask that it be modified to have a vote on Keystone and have a vote on Shaheen-Portman—60-vote threshold, of course.

The ACTING PRESIDENT pro tempore. Will the Republican leader modify his request?

Mr. MCCONNELL. Reserving the right to object, we didn't get amendments on Shaheen-Portman. So what the majority leader is now saying is he wants to pass a kind of comprehensive energy bill dealing with a variety of different subjects without any amendments at all as a condition for having a vote on Keystone with five amendments related to the subject.

I can remember when we used to vote around here. In fact, his Members have only had seven rollcall votes in a year. He has one Member from Alaska who has never had a rollcall vote on the floor his entire Senate career.

So I think rather than these UCs going back and forth, maybe we ought to talk about how to work this out and see if maybe the Senate could actually start voting on things again. I object.

The ACTING PRESIDENT pro tempore. Is there objection to the original request?

Mr. REID. Yes.

The ACTING PRESIDENT pro tempore. Objection is heard.

The majority leader.

Mr. REID. Mr. President, let's not have revisionist history. Let's have real, valid history.

Shaheen-Portman was worked on for weeks last fall. SHAHEEN and PORTMAN worked on this new version of the bill for months, and they worked out many amendments in the committee. They came to me and said they have all this worked out—SHAHEEN and PORTMAN and a number of other Senators. I said: Great.

So before one of our recesses, the day we were getting ready to leave, they came to me and said: What we need to know and what would be even better is if we had a sense-of-the-Senate resolution on Keystone.

I said: We already agreed to what we are going to do. The bill is different with all of this input, such as the Workforce Investment Act, which we will take up this afternoon. So I came back and said: OK, we will have a sense-of-the-Senate; that is fine. And we are going to do this as soon as we get back.

We came back and then I was told: Well, we don't want a sense-of-the-Senate resolution; we want an up-or-down vote here.

I said: OK, let's do it. And that is when that still wasn't good enough. That still wasn't good enough because they want the issue.

The energy efficiency bill is a good bipartisan bill. It is like the one we are going to work on this afternoon. It is a complex bill, but the differences have been worked out, and we should go ahead and vote on it.

So if they really care about Keystone—if this is such a big deal—the Republican leader said we have been working on this for 5 years. The time has come. Let's belly up to the bar where we vote, and let's vote on it. But

in the process, let's also do the bipartisan energy efficiency legislation that JEANNE SHAHEEN has put her heart into.

So that is where we are: another obstruction, diversion to keep us from really voting on things. They want the issue. They are focused on procedure. And what the American people want is for us to do things. They want the minimum wage raised. They want unemployment benefits extended for the long-term unemployed. They would like it so that a man working doesn't make more money than a woman who does the same work. The American people believe they should not be burdened with college debt which is larger than any other debt. It is \$1.3 trillion now. They have stopped us from doing that based on procedure. Why don't we work on things that will help the American people?

The ACTING PRESIDENT pro tempore. The Republican leader.

Mr. MCCONNELL. I ask unanimous consent that the exchange between the majority leader and myself come out of our leader time in order not to take further time of the Members.

Mr. REID. I agree to that. That is fine.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MCCONNELL. I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from South Dakota.

EPA OVERREGULATION

Mr. THUNE. Mr. President, as I mentioned previously, my colleagues and I intend to enter into a colloquy on the floor of the Senate to talk about an issue that is important to many of our States. The Senator from Wyoming, the Senator from North Dakota, and the Senator from Kansas are all very much impacted, as are our constituents, by the EPA's pursuing and being particularly active in issuing misguided and ill-conceived proposals that will do little more than overregulate and burden hard-working Americans, businesses, and families. One of the worst of these overreaches is the Obama EPA's proposal to significantly expand its authority to regulate small wetlands, creeks, stock ponds, and ditches under the Clean Water Act.

If the EPA's proposal goes through, the Federal Government could expand its regulatory authority from navigable waters such as lakes and rivers to the ditches on your grandfather's property or the dry creek bed behind your house. That is what we are talking about. This could lead to untold compliance costs and bureaucratic wrangling for ordinary families and literally cripple farmers and businesses.

The EPA and the Army Corps of Engineers proposed Clean Water Act jurisdictional rule seeks to redefine "waters of the United States" which would effectively eliminate the Clean Water Act's "navigable waters" provision.

Congress specifically referenced "navigable waters" in the Clean Water Act to guarantee limits to Federal authority.

Bodies of water currently deemed "waters of the United States" are subject to multiple regulatory requirements under the Clean Water Act, including permitting and reporting, enforcement, mitigation, and citizen suits. Despite strong bipartisan opposition in Congress, the EPA and the Corps have relentlessly pursued an expansion of the definition of "waters of the United States."

Additionally, the EPA is pressing forward despite two recent Supreme Court cases that expressly rejected the Agency's broad assertions of regulatory authority and made it clear that not all bodies of water are subject to Federal jurisdiction under the Clean Water Act.

If the EPA's power grab is left unchecked, few bodies of water will be able to escape the regulatory reach of the Obama EPA.

This proposed new definition could apply to a countless number of small wetlands and creeks that are typically regulated at the State level. More specifically, the proposed rule extends the reach of Federal regulatory authority by adding "interstate wetlands" and all "adjacent waters" to the definition of "Waters of the United States."

It also deems all tributaries to be categorically jurisdictional, and for the first time ever ditches—ditches—are defined as jurisdictional tributaries. This is cause for concern. This should be disturbing and troubling to all Americans—subjecting roadside, irrigation, and storm water ditches to regulation under the Clean Water Act, which would have practical consequences not fully evaluated by the EPA.

These bodies of water are hardly navigable and are, in many cases, seasonal or sporadic depending on the weather. The proposal also states that the EPA could regulate water on a case-by-case basis—dangerous development for a regulatory agency. The American public is right to be wary of the EPA granting itself such discretion. A case-by-case approach is confusing and will inevitably lead to even more litigation.

This proposal exceeds the established authority of the EPA by infringing upon what has long been a State responsibility under the Clean Water Act. All States—my State of South Dakota, Senator ROBERTS' State of Kansas, Senator HOEVEN's State of North Dakota—have an inherent interest in providing for the well-being of their citizens and businesses and ensuring safe and enduring water resources that play a large role in achieving that end.

My home State of South Dakota's No. 1 industry is agriculture. We help to feed the world. This cannot be done without clean and dependable sources of water for our farmers and ranchers. This expansion of the EPA's regulatory authority would have significant economic impact for property owners who would likely be hit with new Federal